

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RAHBU BEHLIN,

Plaintiff,

-v.-

RITE AID PHARMACY STORE, FELIX LUNA,
and JERMAINE WILLIAMS,

Defendants.

18 Civ. 4335 (KPF)

ORDER

KATHERINE POLK FAILLA, District Judge:

The Court is in receipt of Defendant Rite Aid's letter motion to compel an independent medical examination of Plaintiff (Dkt. #144), as well as Plaintiff's opposition (Dkt. #150). At the outset, the Court notes that much of Plaintiff's opposition is non-responsive to Defendant's letter motion; to the extent Plaintiff discusses issues associated with establishing § 1983 liability as to Defendants Luna and Williams, this information is better shared with Plaintiff's counsel in preparation for depositions and possible summary judgment practice.

As it relates to the independent medical examination, the Court finds the application premature. Defendant notes that it has sent to Plaintiff an authorization for the release of all of Plaintiff's medical records including recent treatments and expected future medical examinations. (Dkt. #144). Based on Defendant's letter motion, it is unable to discern what records are available to Defendant, what discovery has already been taken, and whether an independent medical examination would be duplicative of evidence already within Defendant's possession. While damages are certainly relevant to this

case, the Court believes that the proper course of action is for the parties to complete depositions, and for Defendant to make a renewed application following Plaintiff's release from incarceration in July. The Court expects that any such renewed application will include further detail on why an independent medical examination is necessary in light of discovery Defendant has already received.

Accordingly, Defendant's motion to compel is DENIED without prejudice to its renewal following the completion of depositions and Plaintiff's release from incarceration.

SO ORDERED.

Dated: April 28, 2023
New York, New York

A handwritten signature in blue ink, reading "Katherine Polk Faila".

KATHERINE POLK FAILLA
United States District Judge